IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 30TH NOVEMBER 2007 / 9TH AGRAHAYANA 1929

Bail Appl..No. 7338 of 2007()

CRIME NO.373/07 OF PAYYOLI POLICE STATION

PETITIONER/ACCUSED:

SANTHOSH, S/O. GOPALAN,
VALLIPPARAMBU, KOTTAKKAL, PAYYOLI VIA,
KOZHIKODE DISTRICT.

BY ADV. SRI.C.R.SIVAKUMAR

RESPONDENT: COMPLAINANT

THE STATE OF KERALA, REPRESENTED BY
SUB INSPECTOR OF POLICE, PAYYOLI POLICE STATION,
THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 30/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 7338 OF 2007

Dated this the 30th day of November, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations under the Kerala Abkari Act. He was allegedly found to keep in his possession - in his house, 4.8 litres of Indian Made Foreign Liquor for sale. The petitioner was not present when the seizure was effected. He had allegedly taken to his heels before the seizure was effected. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The contention raised is that the house does not belong to the petitioner.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the materials

collected reveal that the house is in the possession of the petitioner and that he had ran away from the scene of the crime before he could be apprehended.

4. Having considered all the relevant inputs, I am unable to perceive any features in this case which would justify or warrant the invocation of the extraordinary equitable discretion under Sec.438 of the Cr.P.C. This, I agree with the learned Public Prosecutor, is a fit case where the petitioner must surrender before the Investigating Officer or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

Sd/-
(R. BASANT, JUDGE)

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//true copy// P.S. to Judge